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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/710,781	08/02/2004	Gregor P. Freund	VIV/0018.01	4780
28653	7590	07/24/2008		
JOHN A. SMART 201 LOS GATOS SARATOGA RD, #161 LOS GATOS, CA 95030-5308			EXAMINER GELAGAY, SHEWAYE	
			ART UNIT 2137	PAPER NUMBER
			MAIL DATE 07/24/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/710,781	<b>Applicant(s)</b> FREUND, GREGOR P.	
	<b>Examiner</b> SHEWAYE GELAGAY	<b>Art Unit</b> 2137	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 5/13/08.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-70 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-70 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. In view of the Appeal Brief filed on 05/13/08, PROSECUTION IS HEREBY REOPENED. A new ground of rejection set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

/Emmanuel L. Moise/  
Supervisory Patent Examiner, Art Unit 2137

2. Claims 1-70 are pending.

### ***Response to Arguments***

3. Applicant's arguments filed March 13, 2008 have been considered but are moot in view of the new ground(s) of rejection.

***Claim Rejections - 35 USC § 101***

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claim 25 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claim 25 recites "a downloadable set of processor-executable instructions for performing the method of claim 1," a downloadable set of instructions is a form of signal which does not fall in one of the four statutory categories. Therefore, the claim is non-statutory.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-4, 8-19, 22-29, 33-44, 47-52, 56-67 and 70 are rejected under 35 U.S.C. 103(a) as being unpatentable over under 35 by Freund (US 5,987,611) in view of Fazal et al. (hereinafter Fazal) US 2005/0246767.

**Regarding claims 1, 26 and 49,**

Freund discloses a method for controlling connections to a computer, the method comprising:

applying a pre-configured security policy that establishes a restricted zone of at least one pre-approved host that the computer may connect to, so that the computer is not allowed to participate with general connectivity to the internet until security- relevant updates have been completed; (col. 3, line 5-67; col. 14, lines 14-23; col. 15, lines 26-33; col. 16, lines 1-3; *a client-side filter that is controlled by the centralized authority ...the centralized authority has a way of enforcing non-compliance*)

receiving a request for a connection from the computer to a particular host; (col. 4, lines 51-55; col. 5, lines 44-45; *the system can monitor TCP/IP activities ...if a particular client has access rights to the Internet ... trapping a request for Internet access from a client computer*)

based on said pre-configured security policy, determining whether the particular host is within the restricted zone of at least one pre-approved host; (col. 4, lines 3-4; col. 5, lines 6-8; *the centralized supervisor application is installed on a computer on the LAN that can be reached from all workstations that need access to the Internet*)

blocking all clients that have not been verified by the supervisor application; (col. 4, lines 51-55; col. 5, 10-15 and lines 46-47; col 15, lines 26-col. 16, line 3; *the system can monitor TCP/IP activities ...if a particular has access rights to the Internet ...determining whether the request for the Internet access would violate any of the rules transmitted to the particular client; the supervisor monitors whether a client has the filter application loaded and provides the filter application...the supervisor application signals*

*the firewall which client applications have been certified so that the firewall only grants Internet access to those clients)*

blocking said connection if said particular host is not within the restricted zone of at least one pre-approved host; (col. 4, line 3-4; col. 5, lines 49-51; col. 28, lines 30-31; col. 19, lines 61-66; *if the request for Internet access violates any of the rules ... denying the request for Internet access ...if the supervisor detects any problem with the client, It notifies the firewall to disable Internet access for the client*) and

once the computer has complied with the security update policy, lifting the restricted zone so that the computer is allowed to participate with general connectivity to the internet (col. 3, line 64-col. 4, line 4; col. 14, lines 14-23; col. 15, lines 26-33; col. 16, lines 1-3; *a supervisor application that maintains the access rules for the client based filter and verifies the existence and proper operation of the client-based-filter application (installed at each client)...and provides filter application with the rules for the specific user or workstation*)

Freund does not explicitly disclose controlling connections to a computer upon its initial deployment of the computer. Fazal in analogous art, however, discloses controlling connections to a computer upon its initial deployment of the computer. (page 1, pp.8; page 3. pp. 34; page 4, pp. 43-52; 4, pp.41; only device that are found to be in compliant with a predefined corporate security policy may be allowed to access the network or network services; page 6, pp.69-71; *when a new device attempts to connect to the network the server determines whether the new device fulfills corporate*

*standards, if so the server enables access and if the new device is not up-to-date, the device is instructed to contact the update server).* Therefore it would have been obvious to one ordinary skill in the art at the time the invention was made to modify the method disclosed by Freund with Fazal in order to ensure the security features of connected devices are up-to-date and non-compliant devices have limited access, if any, thereby discovering the current state of connected devices and update device as early as possible in the timeline. (page 1, pp.6; Fazl)

**Regarding** claims 2, 17, 27, 42, and 65:

The combination of Freund and Fazal discloses all the subject matter discussed above. In addition, Freund further teaches comprising: prior to the initial deployment of the computer includes a hard disk having a manufacturer-provided disk image, and wherein the manufacturer-provided disk image include preconfigured security policy (the prior art disclosed a pre-package security rules in the system and hard disk for storage, therefore it is a fact that the preconfigured image is stored in the hard disk, further applicant discloses in the background of the specification that pre-installing imaging in hard disk is well known in the art see paragraph 11 and 13 (col. 25, lines 3-10; col. 7, line 40).

**Regarding** claims 3 and 28:

The combination of Freund and Fazal discloses all the subject matter discussed above. In addition, Freund further teaches wherein the computer comprises the portable

computer and initial deployment includes establishing Internet connectivity (col. 15, lines 14-16).

**Regarding** claims 4 and 29:

The combination of Freund and Fazal discloses all the subject matter discussed above. In addition, Freund further teaches wherein the restricted zone comprises a pre-access restricted zone specifically for a new machine (col. 26, lines 60-64; col. 23, line 2-3).

**Regarding** claims 8, **33** and 56:

The combination of Freund and Fazal discloses all the subject matter discussed above. In addition, Freund further teaches wherein said blocking step includes, instructing a firewall, which is responsive to said preconfigured security policy, to block connections to any host that is not within the restricted zone of at least one pre-approved hosts (col. 12, lines 61-64).

**Regarding claims 9-12, 22, 34-37, 47, 57-60 and 70,**

The combination of Freund and Fazal discloses all the subject matter discussed above. In addition, Freund further teaches wherein the pre-approved host comprises specific security-relevant sites; (the limitation of the specific sites include antivirus, firewall and end point security websites is implicitly disclosed within the prior art, as the rules can be set to block or allow whatever site the administrator or user need to block or allow (col. 23, lines 66-67; col. 24, lines 1-5).



**Regarding claims 13, 38 and 61:**

The combination of Freund and Fazal discloses all the subject matter discussed above. In addition, Freund further teaches wherein other attempted connections to the computer are refused (col. 25, lines 1-13; col. 14, lines 13-22; col. 19, lines 57-60).

**Regarding claims 14-15, 39-40 and 62-63:**

The combination of Freund and Fazal discloses all the subject matter discussed above. In addition, Freund further teaches upon the computer completing updating of security sub-systems, removing the restricted zone so that the computer may connect to other machines (the prior art discloses a system with pre-existing rules that can be updated to include as well as exclude host that the system may connect to (col. 24, lines 40-44; col. 26, lines 18-42; col. 27, lines 25-32; col. 25, lines 22-30)).

**Regarding claims 16, 41 and 64,:**

The combination of Freund and Fazal discloses all the subject matter discussed above. In addition, Freund further teaches wherein the preconfigured security policy is preinstalled on the computer prior to user purchase (the prior art discloses a system with a pre-defined or pre-package access right which meets the limitation of preinstalled prior to purchase (col. 25, lines 3-10)).

**Regarding claims 18, 43 and 66:**

The combination of Freund and Fazal discloses all the subject matter discussed above. In addition, Freund further teaches wherein the computer is not allowed to

articulate with general connectivity to the Internet until security-relevant updates have been performed (col. 22, lines 38-41).

**Regarding claims 19, 44 and 67:**

The combination of Freund and Fazal discloses all the subject matter discussed above. In addition, Freund further teaches comprising providing an option that allows a user to override the preconfigured security update policy (col. 27, lines 18-19).

**Regarding claims 23 and 48:**

The combination of Freund and Fazal discloses all the subject matter discussed above. In addition, Freund further teaches comprising upon first attempted connection of the computer downloading an updated list of hosts that the computer may initially connect to (col. 22, lines 20-31).

**Regarding claim 24:**

The combination of Freund and Fazal discloses all the subject matter discussed above. In addition, Freund further teaches a computer-readable medium having processor-executable instructions for performing the method of claim 1 (col. 7, lines 39-41).

**Regarding claim 25:**

The combination of Freund and Fazal discloses all the subject matter discussed above. In addition, Freund further teaches a downloadable set of processor-

executable instructions for performing the method of claim 1 (col. 7, lines 39-41; col. 5, lines 25-26; col. 21, lines 29-37).

8. Claims 5-6, 30-31 and 53-54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Freund (US 5,987,611) in view of Fazal et al. (hereinafter Fazal) US 2005/0246767) and in view of Perkins et al. (US 2004/0187028 A1).

**Regarding claims claim 5, 30 and 53:**

The combination of Freund and Fazal discloses all the subject matter discussed above, except the method wherein said preconfigured security update policy operates to prevent the computer from being remotely accessed by another computer upon initial deployment. The general concept of applying a policy rule to prevent remote access to a computer system is well known in the art as illustrated by Perkins, which discloses a firewall blocking remote access to a computer system (para. 0017, lines 7-9), therefore it would have been obvious for one of ordinary skill in the art at the time of the invention to modify Freund and Fazal to include the use Perkins in order to protect the computer system from possible external threats.

**Regarding claims 6, 31 and 54**

The combination of Freund and Fazal discloses all the subject matter discussed above except the method wherein said preconfigured security update policy operates to prevent the computer from being remotely probed for vulnerabilities by other computers. The general concept of preventing a computer from being remotely probed for vulnerabilities is well known in the art as illustrated by Perkins, which discloses a firewall

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to block remote access from a computer system (para. 0017, lines 7-9). Therefore it would have been obvious for one of ordinary skill in the art at the time of the invention to modify Freund and Fazal to include the use of Perkins in order to protect a computer system from being attack by an external computer.

7. Claims 7, 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Freund (US 5,987,611) in view of Fazal et al. (hereinafter Fazal) US 2005/0246767 and in view of Aroya (US 2004/0177274 A1)

Regarding claims 7, **32 and 55**,:

The combination of Freund and Fazal discloses all the subject matter discussed above, except the method wherein said preconfigured security update policy operates to prevent the computer from being infected by a malicious program delivered through an open port. The general concept of preventing attacks from open port access is well known in the art as illustrated by Aroya, which discloses filtering and controlling port access as to reduce vulnerabilities to a computer system (para. 0006, lines 1-9).

Therefore it would have been obvious for one of ordinary skill in the art at the time of the invention to modify Freund and Fazal to include the use of Aroya in order to protect a computer system from being attack through open ports.

8. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Freund (US 5,987,611) in view of Fazal et al. (hereinafter Fazal) US 2005/0246767 in view of Marchosky (US 2004/0117215 A1 ).

**Regarding claims 20-21, 45-46 and 68-69:**

The combination of Freund and Fazal discloses all the subject matter discussed above, except providing a warning to user and displaying a disclaimer to user. The general concept of providing a warning and displaying a disclaimer to user is well known in the art as illustrated by Marchosky, which discloses a warning is provided to a user and a disclaimer (para. 0188, lines 7-9). Therefore it would have been obvious for one of ordinary skill in the art at the time of the invention to modify Freund and Fazal to include the use of providing a warning and disclaimer to a user in order to let user know of their responsibilities upon overriding security policy.

***Claim Rejections - 35 USC § 102***

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

10. Claims 1, 26 and 49 rejected under 35 U.S.C. 102(e) as being anticipated by Albert et al. (hereinafter Albert) US 2003/0177389.

**Regarding claims 1, 26 and 49,**

Albert discloses a method for controlling connections to a computer upon its initial deployment, the method comprising:

Upon the initial deployment, applying a pre-configured security policy that establishes a restricted zone of at least one pre-approved host that the computer may connect to, so that the computer is not allowed to participate with general connectivity to the internet until security- relevant updates have been completed; (figures 5A and 5B; page 3., pp.24-25; page 5, pp. 50-51; page 9, pp. 80-83)

receiving a request for a connection from the computer to a particular host; (figures 5A and 5B; page 3., pp.24-25; page 5, pp. 50-51; page 9, pp. 80-83)

based on said pre-configured security policy, determining whether the particular host is within the restricted zone of at least one pre-approved host; (figures 5A and 5B; page 3., pp.24-25; page 5, pp. 50-51; page 9, pp. 80-83)

blocking all clients that have not been verified by the supervisor application; (figures 5A and 5B; page 3., pp.24-25; page 5, pp. 50-51; page 9, pp. 80-83)

blocking said connection if said particular host is not within the restricted zone of at least one pre-approved host; (figures 5A and 5B; page 3., pp.24-25; page 5, pp. 50-51; page 9, pp. 80-83) and

once the computer has complied with the security update policy, lifting the restricted zone so that the computer is allowed to participate with general connectivity to the internet (figures 5A and 5B; page 3., pp.24-25; page 5, pp. 50-51; page 9, pp. 80-83)

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SHEWAYE GELAGAY whose telephone number is (571)272-4219. The examiner can normally be reached on 8:00 am to 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Emmanuel Moise can be reached on 571-272-3865. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/S. G./  
Examiner, Art Unit 2137

/Emmanuel L. Moise/  
Supervisory Patent Examiner, Art Unit 2137